

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

CLAIMANT,

vs.

REDWOOD COAST REGIONAL
CENTER,

Service Agency.

OAH No. 2015080431

DECISION

Administrative Law Judge David L. Benjamin, State of California, Office of Administrative Hearings, heard this matter on September 16-17, 2015, in Eureka, California.

Mary Block, Director of Client Services, represented Redwood Coast Regional Center, the service agency.

Claimant was present. He was not represented by an attorney.

The record closed and the matter was submitted on September 17, 2015.

ISSUE PRESENTED

Whether Redwood Coast Regional Center may reduce claimant's supported living services by 33 hours and 56 minutes per month, the number of hours and minutes of service he has been awarded by In-Home Supportive Services.

FACTUAL FINDINGS

1. Claimant is a 34-year-old man who receives services from the Redwood Coast Regional Center (RCRC) due to a diagnosis of autism. Claimant lives in his own apartment.

2. Under claimant's June 19, 2015 Individual Program Plan (IPP), RCRC funds supported living services (SLS) for claimant at the rate of 158 hours per month. These services

promote various objectives of the IPP, including claimant's desire to continue to live in his own apartment; to live a healthy and safe life; and to engage in healthy community living and community participation. The IPP provides that SLS hours will be used to assist claimant to develop and maintain a schedule of daily and community living activities, so that he can maintain a healthy and safe home; to assist claimant with healthy meal planning and preparation; to assist claimant with transportation to and from medical appointments, up to 1,200 miles per month; to assist claimant with shopping so that he has access to fresh produce and groceries that promote nutritional balance and that are "in accordance with any prescribed dietary plan by any Medi-Cal/Medicare funded and approved practitioners and or specialists which [oversee] his care-needs"; and to maintain a behavior plan that promotes good self-care and accommodates claimant's tendency to isolate himself.

3. On July 29, 2015, In-Home Supportive Services, a program administered by the County of Humboldt, awarded claimant 48 hours and 22 minutes of services per month for domestic services; meal preparation; meal clean-up; routine laundry; shopping and related services; feeding; bathing, oral hygiene and grooming; help with setting up medications; and transportation to and from medical appointments. Claimant provided RCRC with a copy of the IHSS award.

4. RCRC reviewed claimant's IHSS award and concluded that the services funded by IHSS duplicate the SLS provided by the regional center. On August 7, 2015, RCRC issued a Notice of Proposed Action, which informed claimant that the regional center intended to reduce his monthly SLS by 48 hours¹ in light of the IHSS award. The notice cited Welfare and Institutions Code section 4689.5, subdivision (b), as the statutory basis for the proposed action.² That section states that a regional center "shall not purchase supported living services for a consumer to supplant IHSS." Claimant filed a timely appeal.

5. After he received the IHSS award, claimant informed IHSS that he did not need help with meal clean-up or laundry. Accordingly, on August 10, 2015, IHSS issued a new notice of action, deleting service hours for meal clean-up and laundry, and granting claimant 33 hours and 56 minutes of service per month for the other tasks identified in its original award. At hearing, RCRC amended its Notice of Proposed Action to state that it proposes to reduce claimant's SLS by 33 hours and 56 minutes per month, not 48 hours as originally stated.

6. RCRC correctly concluded that claimant's IHSS award duplicates supported living services that are being funded by the regional center.

7. Claimant opposes the reduction in SLS hours. He maintains that his SLS hours were intended to replace his former day program. In addition, claimant argues that the proposed reduction is not a "person-centered" action and therefore does comply with the Lanterman Developmental Disabilities Services Act (§ 4500 et seq.).

¹ The regional center concluded that it would waive the 22 minutes over 48 hours.

² All statutory references are to the Welfare and Institutions Code.

LEGAL CONCLUSIONS

1. Under the Lanterman Act, the State of California accepts “a responsibility for persons with developmental disabilities and an obligation to them which it must discharge.” (§ 4501.) The Act provides that an “array of services and supports should be established . . . to meet the needs and choices of each person with developmental disabilities . . . and to support their integration into the mainstream life of the community.” (*Ibid.*) Services and supports are to be centered on the individual with developmental disabilities, taking into account his needs and preferences. (§ 4646, subd. (a).) Regional centers are required to carry out the state’s responsibility to the developmentally disabled. (*Ibid.*)

2. Although regional centers have a duty to provide a wide array of services and supports to implement the goals and objectives of the IPP, the Legislature has directed the regional centers to provide services in a cost-effective manner. (§ 4646, subd. (a).) Regional centers may not purchase services that are available through another public agency:

Regional center funds shall not be used to supplant the budget of any agency which has a legal responsibility to serve all member of the general public and is receiving public funds for providing those services.

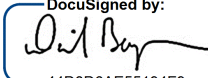
(§ 4648, subd. (a)(8); see also § 4659, subd. (c).) IHSS is such an agency. Regional centers are expressly prohibited from purchasing supported living services for a consumer to supplant IHSS. (§ 4689, subd. (b).)

3. Under claimant’s IPP, the regional center is funding supported living services for claimant that duplicate services provided by IHSS. RCRC is prohibited from using its funds to supplant IHSS services. This funding limitation, established by statute, is unrelated to the obligation of regional centers to provide services and supports centered on the needs of the consumer. The fact that claimant previously participated in a day program does not alter these conclusions. The evidence supports RCRC’s conclusion that, under the Lanterman Act, it must reduce claimant’s supported living services by 33 hours and 56 minutes per month.

ORDER

The appeal of claimant from the decision of Redwood Coast Regional Center to reduce his supported living services by 33 hours and 56 minutes per month is denied.

DATED: September 24, 2015

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DAVID L. BENJAMIN
Administrative Law Judge
Office of Administrative Hearings

NOTICE

This is the final administrative decision in this matter. Judicial review of this decision may be sought in a court of competent jurisdiction within 90 days.